

Application No.: 10/071,802

19

Docket No.: 426882004000

REMARKS

Claims 1-31 stand rejected and claims 32-46 are withdrawn from consideration in the present Office Action. In this response, claims 1, 5, 9, 18, 24, and 28 are amended. Accordingly, claims 1-31 are pending and under consideration in the present application. Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and reasons.

In Section 2 of the Office Action, the Examiner states that the submitted oath/declaration is defective because the "specification to which the oath or declaration is directed has not been adequately identified." The Examiner requests that a new oath/declaration in compliance with 37 CFR § 1.67(a) "identifying the application by application number and filing date" be submitted.

Applicant respectfully submits that a new oath/declaration is *not* required because the originally submitted oath/declaration complies with the requirements of 37 CFR § 1.63 and MPEP § 602. The submitted oath/declaration was filed simultaneously with the present application. A copy of the submitted oath/declaration and stamped return postcard are attached herewith.

37 CFR § 1.63(b) requires that an oath or declaration "identify the specification to which it is directed." When the oath/declaration is filed on the same date as the application filing date, MPEP § 602 states that the "following combination of information supplied in an oath or declaration [] are acceptable as minimums for identifying a specification" and that "compliance with any one of the items below will be accepted as complying with the identifying requirement of 37 CFR 1.63:"

(A) name of inventor(s), and reference to an attached specification which is both attached to the oath or declaration at the time of execution and submitted with the oath or declaration on filing;

(B) name of inventor(s), and attorney docket number which was on the specification as filed; or

(C) name of inventor(s), and title of the invention which was on the specification as filed.

sf-1619511

Application No.: 10/071,802

20

Docket No.: 426882004000

The application number and filing date may be required to be included in the oath/declaration, but only when the oath/declaration is filed after the application filing date. MPEP § 602.

In the present application, the oath/declaration that was filed simultaneously with the application satisfies at least one of the items listed above. The submitted oath/declaration includes, among others, the name of the inventor (i.e., Alvin Wong); references an attached specification and submission with the oath/declaration on filing; and the title of the invention which was on the specification as filed (i.e., "Supplier Performance Reporting"). Thus, it is respectfully submitted that the originally submitted oath/declaration is proper, and that a new oath/declaration is not required.

In Sections 3-4 of the Office Action, claims 1-8 and 24-31 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,960,408 (Martin et al.). In particular, the Examiner stated that:

As per claim 1, Martin et al teaches storing purchasing order data in a data base (column 2, lines 35-37); and generating on time performance reports from the purchase order data, the one time performance reports including a number of orders delivered on time by a first supplier with respect to each of a plurality of start point / end point pairs (column 4, lines 51-67 – on time performance reports are generated based on delivery dates between the customer and the supplier (start point / end point). □

As per claim 5, it is the system with executable code for performing the method of claim 1 therefore the same rejection as applied to claim 1 also applies to claim 5. □

As per claim 24, it is the system with means for performing the method of claim 1 therefore the same rejection as applied to claim 1 also applies to claim 24. □

As per claim 28, it is the computer program in an electronically readable medium with executable code for performing the method of claim 1 therefore the same rejection as applied to claim 1 also applies to claim 28.

Each of amended independent claims 1, 5, 24, and 28 now recites, among others, that the start point is representative of a plurality of events triggering a start of a time period used to measure delivery time, the end point is representative of a plurality of events triggering an end of a time period used to measure delivery time, and each of the plurality of start point/end point pairs can be different from each other for an at least one buyer. Applicant respectfully submits that Martin

sf-1619511

Application No.: 10/071,802

21

Docket No.: 426882004000

et al. does not disclose the combination of elements recited in each of amended independent claims 1, 5, 24, and 28.

In one embodiment of the present application, reporting of on-time performance relative to a plurality of order start point/end point pairs is provided. The suppliers and customers (e.g., buyers) provide information relating to order fulfillment at various points or stages along the order fulfillment process, this information collected during the normal course of their business operations. See Page 3, lines 9-13. The plurality of order start point/end point pairs may comprise, for example, OS-CFD ("order sent" – "customer final destination"), OC-SSD ("order confirmed" – "supplier shipping dock"), and OC-DTO ("order confirmed" – "customer final destination"). See Page 13, lines 3-19; page 1, line 10-page 2, line 6.

In the on-time performance report, start point/end point pairs that differ from each other (e.g., OS-CFD and OC-CFD) can exist for a given buyer. For example, in Figure 4, the on-time performance for a customer C1 with respect to different start point/end point pairs – OS-CFD, OC-SRD, OC-DTO, and OC-CFD – is shown. See Figure 4. The report can also provide on-time performance data relative to a plurality of start point/end point pairs for a plurality of customers. See Figure 4. In this manner, the report permits actual and various purchasing data received (which may not necessarily conform to a single start point/end point pair) to be utilized for determination of on-time performance.

In contrast, Martin et al. discloses generating an on-time product delivery report for each individual customer based on the individual customer's pre-specified performance measurement metric. The system of Martin et al. creates and maintains a customer preferences database (12) that specifies what each customer considers to be an on-time delivery (e.g., actual shipping date or delivery within 2 days of the customer-expected delivery date). This specification or performance measurement metric is compared against each actual order, and a binary determination of being on-time or not being on-time is determined for each order. See column 3, line 5 – column 5, line 47; Figure 1.

sf-1619511

Application No.: 10/071,802

22

Docket No.: 426882004000

The final report contains statistical information for only one customer and is formatted in accordance with the customer's "measurement species:" measurement of performance in terms of dollars, actual ordered units, number of shipments, or number of line-items. As an example, if the format is in terms of dollars, the report would comprise: "total dollar of shipments," "dollar amount of on-time shipments," and "percentage on-time" (i.e., dollar amount of on-time shipments divided by total dollar of shipments). See column 4, line 67-column 5, line 33.

Thus, Martin et al. does not disclose the combination of elements recited in each of amended independent claims 1, 5, 24, and 28. Martin et al. does not disclose generating or presenting on-time performance for a plurality of start point/end point pairs. Martin et al.'s customer preference database predefines, in effect, one end point for a given customer, and the resulting report comprises the binary determination of being on-time or not relative to that predefined end point. Martin et al. also does not factor in the start point in generating its reports.

In contrast, each of amended independent claims 1, 5, 24, and 28 recites, among others, generating an on-time performance report relative to a plurality of start point/end point pairs. The start point is representative of a plurality of events triggering a start of a time period used to measure delivery time, and the end point is representative of a plurality of events triggering an end of a time period used to measure delivery time. Each of the plurality of start point/end point pairs can be different from each other for the at least one buyer. The reports can include performance information for one or more buyers.

Accordingly, Applicant respectfully submits that each of amended independent claims 1, 5, 24, and 28 is allowable over Martin et al. It is also respectfully submitted that claims 2-4, 6-8, 25-27, and 29-31, which depend from one of claims 1, 5, 24, or 28, are also allowable for at least the same reasons as discussed above for claims 1, 5, 24, and 28.

In Sections 5-6 of the Office Action, claims 9-23 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Martin et al. In particular, the Examiner stated that:

sf-1619511

Application No.: 10/071,802

23

Docket No.: 426882004000

As per claim 9, Martin et al teaches summarizing the number of orders shipped and the number of orders on time and calculating the number of on time deliveries based on customer orders and delivery dates (column 5, lines 6-34) but does not explicitly teach, for a first and second subset of the plurality of records, storing in a database summarized purchase order data from a plurality of buyers, the summarized purchase order data comprising a plurality of records, each record in the plurality of records including a supplier, a buyer, a one of a plurality of start point/end point pairs for measuring on time delivery, a number of orders places, and a number of orders delivered on time. Martin et al. generates reports for each customer to convey the number of orders placed and the number of orders delivered on-time in terms of shipments or line items. It would have been obvious to one of ordinary skill in the art to generate a database with the summarized purchase order data for each customer containing the number of orders placed and number delivered on time, as well as, the supplier, the buyer, and the start/end point pairs used to measure the one time delivery to enable the user to more accurately evaluate the on-time performance of shipments between customers and suppliers. []

As per claim 18, is the system with executable code for performing the method of claim 9 therefore the same rejection as applied to claim 9 also applies to claim 18.

Applicant respectfully submits that amended independent claims 9 and 18 and claims 10-17 and 19-23, which depend therefrom, are allowable over Martin et al. for at least the same reasons as discussed above. Each of amended independent claims 9 and 18 now recites, among others, that each of the start point/end point pair can be different from each other for each of the plurality of buyers, the start point is representative of a plurality of events triggering a start of a time period used to measure delivery time, and the end point is representative of a plurality of events triggering an end of a time period used to measure delivery time.

Alternatively, the Examiner acknowledges that Martin et al. does not explicitly teach "for a first and second subset of the plurality of records, storing in a database summarized purchase order data from a plurality of buyers, the summarized purchase order data comprising a plurality of records, each record in the plurality of records including a supplier, a buyer, a one of a plurality of start point/end point pairs for measuring on time delivery, a number of orders places, and a number of orders delivered on time." But the Examiner believes that "[i]t would have been obvious to one of ordinary skill in the art to generate [such] a database." Accordingly, Applicant respectfully requests that the Examiner identify and provide a prior art reference disclosing the remaining elements of claims 9-23 missing from Martin et al. as per the § 103(a) rejection.

sf-1619511

Application No.: 10/071,802

24

Docket No.: 426882004000

In view of the foregoing, it is respectfully submitted that each and every outstanding rejection and objection have been overcome. Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application is respectfully requested. If the Examiner believes a telephone conference would expedite prosecution of the application, the Examiner is encouraged to call the undersigned.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 426882004000. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: March 16, 2004

Respectfully submitted,

By Katherine Lee  
Katherine D. Lee  
Registration No.: 44,865  
MORRISON & FOERSTER LLP  
425 Market Street  
San Francisco, California 94105  
(415) 268-6983

sf-1619511